

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**DENISE TAYLOR, and All Those
Similarly Situated,**

Plaintiff,

v.

**AMERICAN FAMILY INSURANCE
GROUP, and AMERICAN FAMILY
MUTUAL INSURANCE COMPANY,**

Defendants.

CASE NO. 8:07CV493

ORDER

This matter is before the Court on the Court's own motion. It has been brought to the Court's attention that its Order of June 3, 2008, was filed in error. Federal Rule of Civil Procedure 15(a)(1)(A) provides that a "party may amend its pleading once as a matter of course before being served with a responsive pleading." "A motion to dismiss is not a 'responsive pleading' for purposes of this rule." *Winfrey v. Brewer*, 570 F.2d 761, 764 n.4 (8th Cir. 1978); see also Fed. R. Civ. P. 7(a). Accordingly,

IT IS ORDERED:

1. The Clerk's Office shall strike the Court's Order of June 3, 2008 (Filing No. 25);
2. The Clerk's Office shall reinstate Plaintiff's Amended Complaint (Filing No. 17);
3. Defendant's Motion to Dismiss Amended Complaint (Filing No. 18) is reinstated;
4. Plaintiff's Motion for Enlargement of Time for Plaintiffs to File Response to Defendants' Motion Dismiss Plaintiff's Amended Complaint (Filing No. 24) is reinstated and shall be granted; and

5. Plaintiff's response shall be filed on or before June 26, 2008.

DATED this 9th day of June, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge